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SUBJECT: JUNE 5, 2009 INFORMAL CHAIRMAN'S CONSULTATIONS
ON THE WTO ACCESSION OF BELARUS

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11. (U) Summary. Three and a half years after the last such meeting, WTO Members met with Belarus to discuss how negotiations for its WTO membership might be resumed. The meeting was called at the initiative of the Secretariat and Belarus. Belarus emphasized its interest in encouraging investment and privatization, contended that legislation enacted since the hiatus in negotiations was WTO consistent, and noted Belarus' increased integration into the international trading system (expanding exports through 2008) and the ill effects of the global economic crisis (contracting exports now). Several delegations (India, China, Kyrgyzstan) were supportive of Belarus' request and suggested that a formal Working Party (WP) meeting be scheduled to resume discussions. Brazil was supportive, but more measured, saying that the stage is set for resumption, whether formal or informal. A number of other attendees, however, including the United States, European Communities and Australia emphasized their lingering concern that Belarus was not willing to open its market or actually implement WTO-consistent trade measures, notwithstanding legislation that might nominally conform to WTO provisions. They insisted that Belarus provide improved market access offers on goods and services and information on actual implementation of WTO provisions. Belarus did not respond to these points, keeping its comments general. The United States asked Belarus about its planned customs union with Russia and Kazakhstan and any possible effects on its accession. [Note: This was before Russian Prime Minister Putin's recent comments that Russia, Belarus and Kazakhstan plan to launch joint negotiations on accession to the WTO as a customs union.] Belarus gave no indication that joint negotiations were being envisaged; they only noted some coordination among the three countries on WTO-related issues. Delegations will now reflect on the overall discussion and submit written questions and requests. The Chair will consult further before attempting to schedule a formal WP meeting. See paragraphs 7 and 8, below, for Next Steps and a Comment. End Summary.

Background

12. (SBU) Belarus' negotiations for WTO accession with major WTO delegations were effectively suspended in October 2005. For several years, Belarus' approach to the negotiations had been almost totally procedural, measuring progress simply by the number meetings held, whether or not any agreement was reached on the many issues that remain to be resolved. The Working Party met, delegations spoke, Belarus denied there were any issues to discuss, and little progress was made. Belarus frequently complained about how long the accession negotiations were taking, but did little to address the negotiating requests or systemic concerns of the WP members. With respect to the United States, Belarus declared that it would make no further goods offers until Russia had concluded negotiations. By early 2006, the bilateral goods and services offers on the table were actually inferior to the ones that Belarus had circulated two years earlier and inferior to offers made by Russia. Then two issues arose that brought WP members' frustrations to a head: the

routine confiscation at the border of imports for trivial or nonexistent violations of customs regulations (and their subsequent resale in hard currency stores) and the State appropriation of firms based on the principle of a state golden share. Concerns raised bilaterally and in Geneva were dismissed by Belarus as fabrications or misunderstandings, and a significant number of delegations withdrew support for further WP meetings and refused to meet on market access issues until (a) there were substantially improved offers, and (b) delegations had sufficient information on the golden share issue and customs confiscations and responses to questions tabled. Periodic informal consultations during 2006-2008 called by the WP Chairman, Swedish Ambassador to the WTO Mia Horn, confirmed this approach. Belarus has provided information stating that it has abolished the problematic practices at the border and eliminated the concept of (quote) golden share (unquote) in its investment laws. Based on Belarus' statements to the WTO and the Secretariat and the Chairman's interest in resuming work on a different basis, WTO delegations agreed to an informal meeting to assess Belarus' sincerity and prospects for further work on the accession.

Pre-Meeting with the Chair

13. (SBU) In a meeting prior to the scheduled informal consultation with Belarus, the United States, European Communities, Norway, Japan, and Australia met with Chairwoman Mia Horn to discuss viewpoints on the status of the accession. The WTO Secretariat did not attend this meeting. Attendees were unanimous that more credible offers on goods and services are needed, that more evidence of implementation of legislation is needed, and more work on legislation, in areas such as import licensing, copyright, etc., is needed. The United States confirmed that we would need to assess the information provided at this meeting and further inputs from Belarus in terms of offers, legislative action plan, checklists on TBT, TRIPs, SPS, etc., and responses to questions from members before resuming work.

Informal Chairman's Consultations:

14. (U) Deputy Foreign Minister Andrei Yeudachenka led the Belarussian delegation in the informal session. In opening remarks, he provided a brief overview of Belarus' efforts to date, focused on broad economic indicators, rather than progress on specific WTO disciplines. He stressed Belarus' efforts to move into the global economy, noting that its exports had grown from 10 to 34 USD billion from 2003 to 2008. He also pointed to difficulties that Belarus faced as a result of the global financial crisis, in particular, falling exports. He concluded by noting that it had been three and a half years since the last Working Party on Belarus' accession. The EC and US stressed that improved offers and a great deal more information across various areas is essential to gauge Belarus' seriousness before next steps can be determined. The US flagged concerns about recent tariff increases on agricultural and industrial goods and import bans imposed on pork and other products based on an erroneous understanding of the H1N1 virus. On multilateral issues, the United States asked questions related to SPS matters and flagged questions that we would table related to IPR, the relationship between Belarus' activity in customs union and the accession process, and alcohol licensing, among other issues. The EC focused its remarks on the areas of burdensome customs procedures, licensing regime, and continuing lack of transparency. Australia supported the US and EC comments. Members such as India, China, Kyrgyzstan indicated that they viewed substantial changes have taken place in the last several years in Belarus and that they were supportive of resuming the Working Party process as soon as possible. Brazil noted that they have not finalized their bilateral negotiations, but that they have resumed engagement. Ukraine did not make an intervention.

15. (SBU) In his initial responses to members, Yeudachenka provided general information only, insisting that International Monetary Fund and World Bank reports and consultations with the EC in the context of the Eastern Partnership Program have provided opportunities for further transparency about both legislation and current practices. Yeudachenka stressed that Belarus is (quote) trying to be transparent (unquote). He stressed Belarus' interest in attracting foreign investment and efforts to privatize 600 entities in the next several years. The Belarussian delegation throughout the meeting welcomed further questions and offered to respond to them. Anton

Kudasov, Deputy Director of Directorate of Foreign Economic Affairs, MFA, and a veteran of Belarus' accession efforts, responded on substantive issues. Kudasov noted that the legislative action plan submitted earlier has been fully implemented. He asserted that (quote) lack of credibility in tariff offers is subjective (unquote) and stressed that while most members are satisfied with their offers, the difficulty lies with two delegations - the European Communities and the United States. He took more direct aim at the EC, noting that Belarus had made four offers to the EC since 2005 and that Belarus needs concrete direction back from the EC. Kudasov concluded that they are in the middle of their overall effort with members in concluding bilateral goods and services negotiations. At present, they have completed discussions with nine delegations and are in discussions still with another 12. They hope to conclude negotiations with three more Members in the course of 2009. He made no promises about revised offers. Turning to multilateral issues, he noted that Belarus intends to implement WTO commitments in most cases, with some (unspecified) exceptions. On the customs union, he noted that there is work going on with Russia, Kazakhstan to negotiate and establish a single customs tariff. They are currently attempting to eliminate impediments to trade between them. He insisted that Belarus will pursue the customs union in accordance with GATT Article XXIV. [Note: The Belarussians did not indicate, as President Putin did on June 8 at the Eurasian Economic Community Meetings, that Russia, Kazakhstan and Belarus intend to launch joint WTO negotiations as a customs union. Kudasov indicated only that there is inter-state coordination and stressed the importance of both their deepening integration with Russia and the CIS as well as with the European Union. In a follow-up call with the Belarussian mission to the WTO in Geneva on June 10, Second Secretary Aleksandr Tselyuk indicated that they were awaiting instructions from capital on the Putin announcement, their negotiators were only returning from the Eurasian Economic Meetings today and that the announcement was (quote) quite unexpected (unquote). End note.]

16. (U) Responding to the U.S. question concerning recent sharp tariff increases, Kudasov insisted that Belarus is not going to take any protectionist measures in relation to trade. He said that the tariff increases should be viewed in the context of an overall package, which also included tariff reductions on goods needed as inputs for their industry. He claimed that the industrial goods increases are temporary, and will last for nine months, while the agricultural tariff increases will last for six months and offered to provide additional information if questions are submitted in writing. He questioned what specifically the EC is referring to in relation to double licensing concerns and asked for evidence. An unnamed representative from Belarus' customs agency provided brief comments that they have taken 27 governmental decisions with the aim of adhering to World Customs Organization convention by the end of this year. They are updating information technology systems to cover 50 percent of exports declared by the end of the year. He challenged the EC and US representatives to clearly specify their remaining concerns regarding customs valuation and procedures and insisted that Belarus has implemented GATT-consistent legislation. In response to another U.S. question about the status of import bans on pork in relation to the H1N1 virus, Kudasov said the situation remains fluid. Currently a ban is in place and Belarus is expecting a guarantee from trading partners that the virus is not transferable from animals to humans. He noted that their own meat sector is export dependent and that their main market for exports is Russia, whose SPS regime is quote evolving unquote. While they have a vested interest in meeting WTO SPS requirements for imports, they need to ensure they maintain access to their export markets.

Next Steps

17. (U) In her conclusion, the Chairwoman suggested that members submit further questions in writing. Belarus needs to take several concrete steps: 1) update its legislative action plan; 2) provide updated checklists related to customs valuation, TBT, SPS, import licensing and TRIPs; 3) reply in writing to members' questions. She observed that responses could provide input for a more fulsome factual summary to be prepared by the Secretariat. She encouraged members to make more progress in their bilateral work. The Chair insisted that the timing of any next consultations should remain open and subject to consultations with members once they receive these inputs from Minsk. Deputy Minister Yeudachenka made a plea for a deadline for members' submission of questions and for

consideration to be given to setting a date for a fall Working Party. Chairwoman Horn held firm that more consultations are needed on the inputs. The EC and US supported the Chair's next steps.

18. (SBU) Comment. While Deputy Minister Yeudachenka's upbeat and cooperative tone was a decided change from his predecessors more defensive stance, neither he nor Kudasov made any unilateral commitments to address delegations concerns, or even to comply with the request for improved offers. We hope for something more tangible in the written responses. The delay in Belarus' accession has put it the position of having many new WTO Members join the negotiations, like WTO member Ukraine, who attended the meeting but did not speak, and possibly WTO accession applicant Russia, whose accession process is in its late stages. We will transmit the relevant WTO documents and our written questions to post separately, and look forward both to post's comments and to any information provided in the course of normal reporting on the issues raised in these materials. End Comment. End

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